IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.6160 OF 2004

Smt.Lata Rohidas Bhosale : Petitioner

V/s.

The State of Maharashtra & Ors. : Respondents

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Mr.P.A. Pol for the petitioner.

Mr.S.K.Chinchalikar, Asstt. Govt. Pleader for respondent nos.1 & 3.

Mr.K.K.Jadhav for respondent no.4.

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CORAM : S.A. BOBDE, J.

February 21, 2005.

P.C.:

1. Rule, returnable forthwith.

Mr.Chinchalikar, learned Asstt. Govt. Pleader for respondent nos.1 & 3, and Mr.Jadhav, learned counsel for respondent no.4, appear and waive service of rule.

Heard by consent.

2. The petitioner is aggrieved by the grant of a

ration-shop to respondent no.4 by order dated 3.7.2004 passed by the Hon'ble Minister in revision.

3. The main contention on behalf of the petitioner is that respondent no.4 who has been allotted a ration-shop applied for a shop in 'D' sector, shop no.13, E/1 Lane, Chitta Camp, Trombay, Mumbai. The Rationing Officer has found vide report dated 4.3.2004 that these premises are not available to respondent no.4 as the owner of the premises have also given a statement to that effect vide exh.'B'. According to the learned counsel for the petitioner, therefore, the Hon'ble Minister could not have granted the ration-shop to respondent no.4 at another place, viz., Sector 'D', J/1, Chitta Camp, Trombay, Mumbai. The contention of the petitioner would have been acceptable but for the fact that there is a provision made in the circular issued by the Controller of Rationing dated 7.5.2003 which allows a change of location provided it is within the same area. In fact, the learned counsel for respondent no.4 points out, vide exh.5 to the reply, that on 6.8.2003 the Department has accepted the change in the location of the shop allotted to respondent no.4.

4. It is, however, contended by the learned counsel for the petitioner that this change has been accepted pending

revision and that it was not permissible to do so. According to the learned counsel for the petitioner, the acceptance of the change of location of the shop of respondent no.4 could not have been done without issuing a notice to the petitioner. He relied on the judgement of a Division Bench of this Court in Shri Ramji Hanchhod Patel v. The State of Maharashtra & Ors. (Writ Petition No.1373 of 2000) decided on 17.6.2004. It is not possible to accept this contention. A change in the location of the shop is a matter between the applicant for the shop and the Government. The circular invoking the change also does not require a notice to be issued to a contending rival applicant. However, the judgement relied upon by the leaned counsel for the petitioner has no application to the facts of the present case. Since it appears from the judgement that the Division Bench reversed the order of the Hon'ble Minister in revision on the ground that no documents were filed before the Controller of Rationing and they were filed for the first time before the Hon'ble Minister. That is not so in the present case.

5. In the result, there is no merit in this petition which is hereby dismissed. The rule stands discharged.

Sd/-

S.A. BOBDE, J.